Calendar No. 596

99TH CONGRESS *2d Session*	SENATE	REPORT 99-278

MINOR AND TECHNICAL AMENDMENTS TO THE COMPREHENSIVE CRIME CONTROL ACT OF 1984

REPORT

OF THE

COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE

ON

S. 1236

APRIL 4, 1986.—Ordered to be printed

Filed, under authority of the order of the Senate of March 27 (legislative day, March 18), 1986

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Mr. THURMOND, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany S. 1236]

The Committee on the Judiciary, to which was referred the bill (S. 1236) making technical amendments to the Comprehensive Crime Control Act of 1984 having considered the same, reports favorably thereon with an amendment in the nature of a substitute and recommends that the bill as amended do pass.

I. PURPOSE OF AMENDMENT

This amendment makes the necessary minor or technical amendments to provisions previously enacted by the Comprehensive Crime Control Act of 1984 (hereinafter CCCA), Public Law 98-473.

II. HISTORY OF LEGISLATION

On June 4, 1985, during the first session of the 99th Congress, Senators Thurmond (R-S.C.), Biden (D-Del.), Laxalt (R-Nev.), and Kennedy (D-Mass.) introduced, at the request of the administration, S. 1236, to make minor or technical amendments to provisions enacted by the CCCA, and for other purposes.

The Committee on the Judiciary considered S. 1236 on December 12, 1985, at an open executive committee meeting. The Committee adopted an amendment in the nature of a substitute and ordered the bill reported favorably to the full Senate.

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III. Background Summary

The CCCA passed during the 98th Congress, included the most significant series of changes in the Federal criminal justice system ever enacted at one time. It brought about much needed and sweeping reforms in the areas of bail, sentencing, forfeiture, the insanity defense, drug enforcement, and many other aspects of criminal law. The benefits and value of this important criminal law reform are just beginning to take effect, and its impact is expected to continue for years to come. However, because passage of the Act, which included 65 provisions, came during the final weeks of the 98th Congress, under demanding time constraints, a number of ambiguities and technical defects inevitably found their way into the statute. S. 1236 was introduced, at the request of the administration, for the purpose of curing those defects inherent in the passage of the CCCA

S. 1236, as originally introduced, included 85 provisions spanning the scope of the Federal criminal law. The task of considering the bill became somewhat cumbersome. In order to expedite consideration of this measure, the Committee formulated a compromise containing those sections of S. 1236 which were unanimously supported by the members of the Committee and it was offered as an amendment in the nature of a substitute. It was agreed that those provisions which were not included in the compromise bill would be considered as separate legislation, subject to further consideration, including possible hearings, during the 2nd session of the 99th Congress. Both Senators Thurmond and Biden specifically noted that the Committee would hold hearings with respect to the issue of forfeiture of attorney's fees.

IV. Section-by-Section Analysis

A. BAIL

Section 1 makes changes to the bail provisions of the CCCA. In particular, section 1(a) clarifies that a defendant charged with a third felony of the respective type is subject to a detention hearing regardless of whether the third felony was committed before or after the acts which formed the basis of the two previous felony convictions.

Section 1(b) is purely technical and adds a necessary "or".

Section 1(c) clarifies that a court has the authority to reopen a detention hearing to consider further relevant information not known to the movant at the time of the original hearing.

B. OTHER SENTENCING AMENDMENTS

Section 2 makes a technical amendment, removing from the law a statute that was effectively repealed by the CCCA.

Section 3 makes technical amendments and clarifications concerning the terms of office and residency requirements of the judicial members of the Sentencing Commission.

Section 4 clarifies the duties of the Sentencing Commission by requiring that the Commission issue general policy statements with regard to revocation of probation and supervised release, by speci-

fying a minimum guideline range of 30 years for a guideline that includes life imprisonment as the upper range, and by clarifying the Commission's power to specify the circumstances under which the sentences of prisoners may be reduced if the applicable guideline is later reduced.

Section 5 makes two technical amendments and clarifies that the obligation of a U.S. marshal to return a defendant to the court, pursuant to a court ordered presentence study, shall apply only to a defendant who is in custody.

Section 6 directs a court to consider guidelines applicable to similar offenses in imposing a sentence for an offense for which there are as yet no applicable guidelines.

Section 7 makes a technical amendment to resolve an inconsistency between 18 U.S.C. 3553(c) and 3663(a)(2), relating to whether the court must state reasons for ordering partial restitution.

Section 8 makes a technical amendment concerning probation. The CCCA established probation as an independent type of sentence. This provision deletes language from 18 U.S.C. 3561 which is contrary to the fact that probation is, indeed, an independent sentence.

Section 9 makes a technical change to eliminate an improper cross-reference to 18 U.S.C. 3581(b).

Section 10 makes a minor procedural change to permit a court to modify conditions of probation without a hearing under circumstances where: (1) the change is favorable to the defendant; and, (2) subsequent to being notified, the government has no objection.

Section 11 clarifies section 212(a) of the Act to provide in 18 U.S.C. 3564(b) that a term of probation does not run while a defendant is imprisoned for a Federal, State, or local conviction unless the imprisonment is for a period of less than 30 consecutive days.

Section 12 of the proposed bill amends section 212(a) of the Act to provide that probation officers have the authority under 18 U.S.C. 3603(f) to assist in the supervision of persons within the custody of the Attorney General while on work release, furlough, or other authorized release from confinement. The amendment clarifies that primary responsiblity for supervising people committed to the custody of the Attorney General remains with the Bureau of Prisons and that the role of the Probation Service is ancillary.

Section 13 makes clear that "good time" credit applies to the first year of imprisonment as well as to subsequent years.

Section 14 amends section 212(a) of the Act to conform a provision concerning the running of a term of supervised release in 18 U.S.C. 3624(e) with a similar provision about probation in 18 U.S.C. 3624, discussed in section 11.

Section 15 resolves an inconsistency between 18 U.S.C. 3556 and 18 U.S.C. 3663 relating to restitution by providing that restitution may be ordered in addition to, but not in lieu of, any other sentence, and also corrects an erroneous cross-reference.

Section 16 restores authority, inadvertently repealed by the CCCA, to the Administrative Office of U.S. Courts to contract for the care of addicted or drug dependent offenders.

Section 17 makes clear that juvenile sentences are to be of equal length as those for adult offenders committing the same crime, and

also makes clear that "good time" is available to juveniles sentenced to prison.

Section 18 amends section 215(a) (5) of the CCCA, with respect to Rule 32(c)(2)(B) of the Federal Rules of Criminal Procedure, to make a grammatical correction only.

Section 19 amends section 215(f) of the CCCA, with respect to Rule 6(e)(3)(C) of the Federal Rules of Criminal Procedure, regarding exceptions to the rule of secrecy set forth in Rule 6(e). The amendment is technical and moves the word "or" to the end of subdivision (e)(3)(C)(iii) from the end of subdivision (e)(3)(C)(ii), so as to take into account the amendment by section 215(f) of the Act, which added a new subdivision (e)(3)(C)(iv).

Sections 20 and 21 are technical and correct erroneous cross references designed to delete reference to the special parole provisions of the controlled substances laws.

Section 22 is technical and deletes a reference to a repealed statute, the Narcotic Addict Rehabilitation Act of 1966, 42 U.S.C. 257(a)

Section 23 extends the time limit for the Sentencing Commission to promulgate guidelines from 18 to 30 months and makes conforming time changes in related provisions.

C. FORFEITURE

Section 24 is technical and reletters, as appropriate, various subsections in the forfeiture laws.

Section 25 amends 19 U.S.C. 1608, as amended by section 213 of the Trade and Tariff Act of 1984, Public Law No. 98–573, to resolve an inconsistency between the two Acts. The amendment concerns the maximum amount of a bond required in order for a claimant to obtain judicial forfeiture of property otherwise subject to administrative forfeiture and retains the higher figure provided in the CCCA ($5,000), instead of the $2,500 amount provided by the Trade and Tariff Act.

Section 26 conforms the customs forfeiture law to that relating to controlled substances by permitting the Secretary of the Treasury to share forfeited property with any assisting Federal agency, as well as with State and local agencies.

Section 27 is technical and reletters, as appropriate, various subsections of section 413 that were not relettered when this section was amended by section 2301(d) and (e) of chapter XXXIII.

Section 28 makes procedural clarifications to the civil forfeiture provisions of the controlled substances law, setting forth the procedure for a seizure warrant and clarifying when a stay of the forfeiture proceeding may be sought.

Section 29 permits the FBI and the Marshals Service to use the Assets Forfeiture Fund to the same extent as the DEA and INS, correcting a minor disparity in specified uses.

D. OFFENDERS WITH MENTAL DISEASE OR DEFECTS

Section 30 corrects an inadvertent omission and thereby restores provisions relating to the inadmissibility of defendants' statements given during a competency examination.

E. DRUG ENFORCEMENT AMENDMENTS

Section 31 clarifies that all isomers of controlled substances are included in the controlled substances statutes.

Section 32 amends subsection (a)(4) of schedule II of the Controlled Substances Act, 21 U.S.C. 812, which describes cocaine. Although this provision of schedule II was amended in a somewhat different fashion by section 507(c) of the CCCA, the amendment made by this proposal makes the description of cocaine in the schedule identical to its description in the definition of "narcotic drug" in 21 U.S.C. 802(17), as amended by section 507(b) of the CCCA.

Section 33 amends section 401(b)(1)(A) of the Controlled Substances Act, 21 U.S.C. 841(b)(1)(A), concerning drug penalties, as amended by section 502 of the CCCA. Paragraph (1) amends 21 U.S.C. 841(b)(1)(A)(i) to clarify that the "100 grams or more" of the mixture or substance giving rise to the enhanced penalties need not be 100 grams or more of a mixture entirely of controlled substances; i.e., the 100 grams or more may contain other substances as long as the total includes a detectable amount of a narcotic drug in schedule I or II other than cocaine. This amended language is intended to avoid a literal reading of the provision that would make little sense in terms of drug-selling practices; the language is identical to that used in section 1010(b)(1)(A) of the Controlled Substances Import and Export Act, 21 U.S.C. 960(b)(1)(A), as amended by section 504 of the CCCA. Paragraph (1) also amends the description of coca leaves and their derivatives in the definition of "narcotic drug" in 21 U.S.C. 802(17) (C), (D), (E) and (F), as amended by section 507(b) of the CCCA. Paragraphs (2), (3), and (4) provide that large quantities of cocaine, phencyclidine (PCP), and lysergic acid diethylamide (LSD) need not be in pure form for enhanced penalty provisions to apply. As a rule, clandestinely manufactured controlled substances are impure. The language amending these clauses is identical to that used in clause (i) regarding opiates. The amendment made by paragraph (5) authorized imposition of a special parole term applicable to violations of 21 U.S.C. 841(b)(1)(A) similar to that provided for violations of subparagraphs (B) and (C). The special parole language in all these provisions will be repealed when the Sentencing Reform Act of 1984, as amended by the Sentencing Reform Amendments Act of 1985, Public Law 99–217, takes effect on November 1, 1987.

Section 34 makes a purely technical amendment to the Controlled Substances Act, 21 U.S.C. 845A(b).

Sections 35 and 36 restore provisions inadvertently deleted from the CCCA that permit the Attorney General to contract with State and Local agencies for cooperative enforcement under the controlled substances laws, and to permit local officers to perform certain enforcement functions.

Section 37 amends section 1010(b) of the Controlled Substances Import and Export Act, 21 U.S.C. 960(b), concerning drug import/export penalties, as amended by section 504 of the CCCA, Subsection (a)(1) amends the description of coca leaves and their derivatives in 21 U.S.C. 960(b)(1)(A) for the reasons set forth above in the discussion of the parallel amendment in section 33(a)(1). The

amendments in paragraphs (2) through (5) are parallel to those paragraphs (2) through (5) of section 33(a) of this bill, regarding the enhanced penalties under the Controlled Substances Act, and are included for the reasons set forth in the discussion of that section. The amendment in section 37(b) deletes words which incorrectly refer to a nonexistent paragraph (4) in 21 U.S.C. 960(b).

F. LABOR RACKETEERING AMENDMENTS

Section 38 makes a technical conforming amendment in the labor racketeering provision.

G. CURRENCY AND FOREIGN TRANSACTION REPORTING ACT AMENDMENTS

Section 39 conforms the threshold in the currency reporting statute relating to reports on funds transported *into* the United States to that applicable under the CCCA for funds transported *outside* the United States.

H. MISCELLANEOUS VIOLENT CRIME AMENDMENTS

Section 40 expands the CCCA offense of soliciting a crime of violence to include solicitation of crimes such as arson against one's own property.

Section 41 adds drug felonies to the definition of "crime of violence" for purposes of the statute penalizing a defendant for the use of a firearm in the commission of such a crime.

Sections 42 and 67 makes changes in the statutes penalizing a defendant for the use of armor-piercing bullets or explosives during the commission of a Federal offense to conform with the amendments made in the CCCA to the companion statute penalizing a defendant for the use of a firearm in the commission of certain Federal crimes.

Section 43 makes attempted kidnaping of a Federal officer an offense. The CCCA created an offense for the attempted kidnaping of the immediate family of a Federal officer. This amendment conforms the two offenses and makes a technical amendment to the penalty provision of the latter.

Section 44 is technical and redesignates the section number of the offense of destruction of an energy facility.

I. SERIOUS NONVIOLENT OFFENSES

Section 45 makes technical amendments to the bank bribery statute to assure that references to bank holding companies and savings and loan holding companies are internally consistent.

Section 46 corrects the definition of a public official in the Foreign Agents Registration Act to delete jurors and add congressional delegates.

Section 47 is technical and redesignates the section number of an offense.

Section 48 makes clarifying and conforming amendments in the offense punishing the introduction of contraband into a prison.

J. PROCEDURAL AMENDMENTS

Sections 49, 50, and 51 are purely technical and correct erroneous references to a repealed statute.

Section 52 makes a variety of technical and minor changes relating to the supervision of a protected Federal witness who is on State probation or parole.

Section 53 restores a provision inadvertently deleted from the CCCA relating to the ability of the U.S. Marshals Service to credit certain amounts to its appropriation account.

K. VICTIM COMPENSATION AND ASSISTANCE

Section 54 amends the special assessment provisions of 18 U.S.C. 3013 to cure a practical problem and a possible constitutional defect by eliminating certain minor infractions for which collateral may be forfeited from the assessment penalty.

Section 55 is technical and corrects an erroneous reference.

Sections 56 and 57 are technical and redesignate the numbers of sections and a chapter created by the CCCA.

Section 58 provides for greater flexibility for States to expend funds granted them under the Crime Victims Fund.

Sections 59 and 60 are technical and correct erroneous cross-references.

L. TRADEMARK COUNTERFEITING

Section 61 is technical and redesignates a section number.

M. ACCESS DEVICES AND COMPUTERS

Section 62 restores an inadvertently deleted exemption for authorized law enforcement or intelligence activities and deletes 18 U.S.C. 1030(a)(3) relating to accessing a government computer.

N. MISCELLANEOUS AMENDMENTS

Section 63 amends 18 U.S.C. 3, which provides that the penalty applicable to an accessory after the fact is not more than one-half the maximum penalty prescribed for the punishment of the principal or not more than 10 years of imprisonment if the principal is punishable by death. This section amends 18 U.S.C. 3 to provide that if the principal is punishable by life imprisonment, the maximum prison term applicable to an accessory after the fact is also 10 years. The purpose of this amendment is to prevent difficulties that can arise from statutory authorization to sentence a defendant to a term of one-half of life imprisonment.

Section 64 adds a definition for the term "organization" used in the CCCA.

Sections 65 and 66 clarify the definition of "public official" in the bribery laws to include all delegates to Congress.

Section 68 restores a reference inadvertently deleted in the criminal Racketeering Influenced and Corrupt Organizations statute to certain victim and witness intimidation provisions.

Section 69 makes changes in the section dealing with the offense of the receipt of stolen property in order to conform that section

with changes made last year to the section dealing with the offense of the receipt of stolen vehicles.

Section 70 clarifies the procedures by which the Bureau of Prisons will determine how persons transferred to this country under prisoner transfer treaties will serve their sentences.

Section 71 provides that it is a lawful condition of release that a person undergo available psychological treatment.

Section 72 makes technical amendments to 18 U.S.C. 922 to replace definitions of certain controlled substances in repealed statutes with their appropriate definitions in the Controlled Substances Act.

Section 73 amends 18 U.S.C. 875 to apply to threats transmitted in foreign as well as interstate commerce.

Section 74 expands the category of persons covered by the section dealing with penalties for violent offenses against certain persons in the U.S. Government to include non-congressional major candidates for President and Vice-President.

V. Congressional Budget Office Estimate

U.S. Congress,
Congressional Budget Office,
Washington, D.C. March 25, 1986.

Hon. Strom Thurmond,
Chairman, Committee on the Judiciary,
U.S. Senate, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has reviewed S. 1236, a bill to amend title 18 of the United States Code and other laws to make minor or technical amendments to provisions enacted by the Comprehensive Crime Control Act of 1984, and for other purposes, as ordered reported by the Senate Committee on the Judiciary, December 12, 1985.

S. 1236 includes a number of amendments to the Comprehensive Crime Control Act (CCCA), including provisions dealing with sentencing, forfeiture, drug enforcement and violent crimes. These amendments are generally technical or clarifying in nature. While there are some provisions of this bill that could result in small costs or savings, overall we expect it to have no significant cost to the federal government and no cost to state or local governments.

Amendments made to bail and other sentencing provisions by Sections 1 and 10 of S. 1236 could result in small costs for the Department of Justice and the courts. Section 1 clarifies the bail provisions of Title 18 to ensure that defendants charged with a third felony of the appropriate type are subject to detention hearings regardless of whether this third felony was committed before or after those associated with the previous two convictions. This section also explicitly allows a court to reopen a detention hearing should further relevant information become available. We expect that no significant additional costs to the federal government will result from these provisions, because very few defendants will be affected by the first provision, and in the latter case, the courts have effectively acquired this power through case law. Section 10 relieves the courts of the necessity for certain perfunctory hearings to modify probation conditions. The number of hearings potentially avoided

and the ensuing cost savings cannot be specifically estimated, but are not expected to be significant.

Sections 33 and 37 clarify the definitions in and penalty of the Controlled Substances Act and the Controlled Substances Import and Export Act, as amended by the CCCA. By making it clear that mixtures or substances containing detectable amounts of controlled substances are included within the scope of these laws, these amendments could result in longer sentences in some cases. These sections also provide for special parole terms following convictions under certain provisions of the acts. These amendments are intended to eliminate inconsistencies in current law, and will affect only people sentenced during the interim period before new sentencing guidelines are established by the Sentencing Commission in 1987. Very few cases should be affected by this change, and the budget impact is not expected to be significant.

Two sections which bring other statutes in conformity with the CCCA could affect the workload of federal agencies and the Judiciary. Section 25 amends the Tariff Act of 1930 to increase from $2,000 to $5,000 the amount of bond which must be posted for a forfeiture proceeding to be handled by the courts, rather than administratively. We expect this could result in fewer court proceedings and a decrease in costs borne by the government, but we cannot estimate the exact amount. The effect is likely to be small, because most forfeiture proceedings handled by the courts generally involve large sums of money. Section 39 of this bill amends the Currency and Foreign Transactions Reporting Act to increase from $5,000 to $10,000 the threshold above which funds transported into the United States must be reported to the Treasury Department. This should reduce the number of reports processed by Treasury officials and slightly reduce the department's workload, but any resulting savings would be small.

Within the amendments dealing with violent crime statutes, Section 40 expands application at the offense of soliciting a crime of violence to include crimes against one's own property. We expect this change to affect a negligible number of cases and involve no significant cost to the government. Section 41 of this chapter adds drug felonies to the class of crimes covered by Section 924 of Title 18, punishing the use of a firearm during the commission of certain crimes. This amendment could involve a significant number of cases, and may lengthen sentences in some of these cases, resulting in increased costs for incarceration of prisoners. We cannot accurately estimate the extent of such lengthened sentences, however, in part because sentences for these crimes are probably already influenced by the involvement of firearms. No significant budgetary effects are likely to result.

Section 53 of this bill authorizes the U.S. Marshals Service to credit amounts collected for service of civil process and certain seizures and sales against its appropriation. As these collections have been returned to the general Treasury in the past, this will increase funds available to the Marshals Service. This change is not expected to have a large impact, however. The total amount collected for service of civil process in 1985 was only $85,000.

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes,
Sincerely,

EDWARD GRAMLICH,
For Rudolph G. Penner, Director.

VI. REGULATORY IMPACT STATEMENT

In compliance with paragraph 11(b), rule XXVI of the Standing Rules of the Senate, the Committee, after due consideration, concluded that this bill will not have any regulatory impact.

VII. VOTE OF COMMITTEE

On December 12, 1985, with a quorum present, by voice vote, and without objection heard, the Committee on the Judiciary ordered the bill with an amendment in the nature of a substitute favorably reported.

VIII. CHANGES IN EXISTING LAW

In compliance with paragraph (12) of rule XXVI of the Standing Rules of the Senate, changes in existing law made by S. 1236 are as follows: Existing law proposed to be omitted is enclosed in black brackets, new material is printed in italic, existing law in which no change is proposed is shown in roman.

UNITED STATES CODE

* * * * * * *

TITLE 18—CRIMES AND CRIMINAL PROCEDURE

* * * * * * *

PART II—CRIMINAL PROCEDURE

Chapter Sec.

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[232. Special forfeiture of collateral profits of crime.]
232A. Special forfeiture of collateral profits of crime..... 3681

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CHAPTER 1—GENERAL PROVISIONS

Sec.

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3. Accessory after the fact.

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17. Organization defined.

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§ 3. Accessory after the fact

Whoever, knowing that an offense against the United States has been committed, receives, relieves, comforts or assists the offender

in order to hinder or prevent his apprehension, trial or punishment, is an accessory after the fact.

Except as otherwise expressly provided by any Act of Congress, an accessory after the fact shall be imprisoned not more than one-half the maximum term of imprisonment or fined not more than one-half the maximum fine prescribed for the punishment of the principal, or both; or if the principal is punishable by life imprisonment or death, the accessory shall be imprisoned not more than ten years.

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§ 17. Organization defined

For purposes of this title, the term "organization" means a person other than an individual.

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CHAPTER 7—ASSAULT

Sec.

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115. Influencing, impeding, or retaliating against a Federal official by threatening or injuring a family member.

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§ 115. Influencing, impeding, or retaliating against a Federal official by threatening or injuring a family member

* * * * * * *

(b)(1) An assault in violation of this section shall be punished as provided in section 111 of this title.

[(2) A kidnaping or attemped kidnaping in violation of this section shall be punished as provided in section 1201 of this title.]

(2) A kidnaping or attempted kidnaping in violation of this section shall be punished as provided in section 1201 of this title for the kidnaping or attempted kidnaping of a person described in section 1201(a)(5) of this title.

* * * * * * *

CHAPTER 11—BRIBERY, GRAFT, AND CONFLICTS OF INTEREST

Sec.

201. Bribery of public officials and witnesses.

* * * * * * *

203. Compensation of Members of Congress, officers and others, in matters affecting the Government

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215. Receipt of commissions or gifts for procuring loans.

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219. Officers and employees acting as agents of foreign principles.

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§ 201. Bribery of public officials and witnesses.

(a) For the purpose of this section:

"public official" means Member of Congress [the Delegate from the District of Columbia], Delegate or Resident Commissioner, either before or after he has qualified, or an officer or employee or person acting for or on behalf of the United States, or any department, agency or branch of Government thereof, including the District of Columbia, in any official function, under or by authority of any such department, agency, or branch of Government, or a juror; and

* * * * * * *

§ 203. Compensation to Members of Congress, officers, and others in matters affecting the Government

(a) Whoever, otherwise than as provided by law for the proper discharge of official duties, directly or indirectly receives or agrees to receive, or asks, demands, solicits, or seeks, any compensation for any services rendered or to be rendered either by himself or another—

(1) at a time when he is a Member of Congress, Member of Congress Elect, [Delegate from the District of Columbia, Delegate Elect from the District of Columbia], *Delegate, Delegate Elect* Resident Commissioner, or Resident Commissioner Elect; or

* * * * * * *

§ 215. Receipt of commissions or gifts for procuring loans

(a) Whoever, being an officer, director, employee, agent, or attorney of any financial institution, bank holding company, or savings and loan holding company, except as provided by law, directly or indirectly, asks, demands, exacts, solicits, seeks, accepts, receives or agrees to receive anything of value, for himself or for any other person or entity, other than such financial institution, *bank holding company, or savings and loan holding company,* from any person or entity for or in connection with any transaction or business of such financial institution, *bank holding company, or savings and loan holding company*; or

(b) Whoever, except as provided by law, directly or indirectly, gives, offers, or promise anything of value to any officer, director, employee, agent, or attorney of any financial institution, bank holding company, or savings and loan holding company, or company, or savings and loan holding company, or offers or promises any such officer, director, employee, agent, or attorney to give anything of value to any person or entity, other than such financial institution, *bank holding company, or savings and loan holding company,* for or in connection with any transaction or business of such financial institution, *bank holding company, or savings and loan holding company* shall be fined not more than $5,000 or three times the value of anything offered, asked, given, received, or agreed to be given or received, whichever is greater, or imprisoned not more than five years, or both; but if the value of anything offered, asked, given, received, or agreed to be given or received does not exceed

$100, shall be fined not more than $1,000 or imprisoned not more than one year, or both

* * * * * * *

(c) As used in this section—

(1) "financial institution" means—

* * * * * * *

(D) any credit union the accounts of which are insured by the [Administrator of the] National Credit Union Administration;

* * * * * * *

(d) This section shall not apply to the payment by a financial institution, *bank holding company, or savings and loan holding company* of the usual salary or director's fee paid to an officer, director, employee, agent, or attorney thereof, or to a reasonable fee paid by such financial institution, *bank holding company, or savings and loan holding company* to such officer, director, employee, agent, or attorney for services rendered to such financial institution, *bank holding company, or savings and loan holding company.*

* * * * * * *

§ 219. Officers and employees acting as agents of foreign principals

[Whoever, being a public official of the United States in the executive, legislative, or judicial branch of the Government or in any agency of the United States, including the District of Columbia, is or acts as an agent of a foreign principal required to register under the Foreign Agents Registration Act of 1938, as amended, shall be fined not more than $10,000 or imprisoned for not more than two years, or both.]

Whoever, being a public official, is or acts as an agent of a foreign principal required to register under the Foreign Agents Registration Act of 1938, as amended, shall be fined not more than $10,000 or imprisoned for not more than two years, or both.

* * * * * * *

For the purpose of this section "public official" means Member of Congress, [the Delegate from the District of Columbia] *Delegate,* or Resident Commissioner, either before or after he has qualified, or an officer or employee or person acting for or on behalf of the United States, or any department, agency or branch of Governments thereof, including the District of Columbia, in any official function, under or by authority of any such department, agency, or branch of Government [, or a juror].

* * * * * * *

CHAPTER 18—CONGRESSIONAL, CABINET, AND SUPREME COURT ASSASSINATION, KIDNAPING, AND ASSAULT

Sec.

351. Congressional, Cabinet, and Supreme Court assassination, kidnaping, and assault; penalties.

§ 351. Congressional assassination, kidnaping, and assault; penalties

(a) Whoever kills any individual who is a Member of Congress or a Member-of-Congress-elect, a member of the executive branch of the Government who is the head, or a person nominated to be head during the pendency of such nomination, of a department listed in section 101 of title 5 or the second ranking official in such department, the Director (or a person nominated to be Director during the pendency of such nomination) or Deputy Director of Central Intelligence, *a major candidate for the office of President or Vice-President, as defined in subsection (a)(7) of section 3056 of this title* or a Justice of the United States, as defined in section 451 of title 28, or a person nominated to be a Justice of the United States, during the pendency of such nomination, shall be punished as provided by sections 1111 and 1112 of this title.

(b) Whoever kidnaps any individual designated in subsection (a) of this section shall be punished (1) by imprisonment for any term of years or for life, or (2) by death or imprisonment for any term of years or for life, if death results to such individual.

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(h) In a prosecution for an offense under this section the Government need not prove that the defendant knew that the victim of the offense was [an official] *a person* protected by this section.

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CHAPTER 19—CONSPIRACY

Sec.

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373. Solicitation to commit a crime of violence.

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§ 373. Solicitation to commit a crime of violence

(a) Whoever, with intent that another person engage in conduct constituting a felony that has as an element the use, attempted use, or threatened use of physical force against the person or property of another, *or against such person's own property,* in violation of the laws of the United States, and under circumstances strongly corroborative of that intent, solicits, commands, induces, or otherwise endeavors to persuade such other person to engage in such conduct, shall be imprisoned not more than one-half the maximum term of imprisonment of fined not more than one-half of the maximum fine prescribed for the punishment of the crime solicited, or both; or if the crime solicited is punishable by *life imprisonment or* death, shall be imprisoned for not more than twenty years.

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CHAPTER 25—COUNTERFEITING AND FORGERY

Sec.

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510. Forging endorsements on Treasury checks or bonds or securities of the United

States.
[510.[3] Securities of the State and private entities.]
511. Altering or removing motor vehicle identification numbers.
512. Forfeiture of certain motor vehicles and motor vehicle parts.
513. Securities of the State and private entities.

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§ [511.] *513.* Securities of the States and private entities

(a) Whoever makes, utters or possesses a counterfeited security of a State or a political subdivision thereof or of an organization, or whoever makes, utters or possesses a forged security of a State or political subdivision thereof or of an organization, with intent to deceive another person, organization, or government shall be fined not more than $250,000 or imprisoned for not more than ten years, or both.

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CHAPTER 40—IMPORTATION, MANUFACTURE, DISTRIBUTION AND STORAGE OF EXPLOSIVE MATERIALS

Sec.

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844. Penalties.

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§ 844. Penalties

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[(h) Whoever—

[(1) uses fire or an explosive to commit any felony which may be prosecuted in a court of the United States, or

[(2) carries an explosive unlawfully during the commission of any felony which may be prosecuted in a court of the United States,

shall be sentenced to a term of imprisonment for not less than one year nor more than ten years. In the case of his second or subsequent conviction under this subsection, such person shall be sentenced to a term of imprisonment for not less than five years nor more than twenty-five years, and, notwithstanding any other provision of law, the court shall not suspend the sentence of such person or give him a probationary sentence.]

(h) Whoever uses fire or an explosive to commit, or carries an explosive during the commission of, any felony which may be prosecuted in a court of the United States, including a felony which provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device, shall, in addition to the punishment provided for such felony, be sentenced to imprisonment for five years. In the case of his second or subsequent conviction under this subsection, such person shall be sentenced to imprisonment for ten years. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person convicted of a violation of this subsection, nor shall the term of imprisonment imposed under this subsection run concurrently with any other term of imprisonment including that imposed for the

felony in which the fire or explosive was used or the explosive was carried. No person sentenced under this subsection shall be eligible for parole during the term of imprisonment imposed herein.

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CHAPTER 41—EXTORTION AND THREATS

Sec.

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875. Interstate communications.

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§ 875. Interstate communications

(a) Whoever [transmits in interstate commerce] *transmits in interstate or foreign commerce* any communication containing any demand or request for a ransom or reward for the release of any kidnaped person, shall be fined not more than $5,000 or imprisoned not more than twenty years, or both.

(b) Whoever, with intent to extort from any person, firm, association, or corporation, any money or other thing of value, [transmits in interstate commerce] *transmits in interstate or foreign commerce* any communication containing any threat to kidnap any person or any threat to injure the person of another, shall be fined not more than $5,000 or imprisoned not more than twenty years, or both.

(c) Whoever [transmits in interstate commerce] *transmits in interstate or foreign commerce* any communication containing any threat to kidnap any person or any threat to injure the person of another, shall be fined not more than $1,000 or imprisoned not more than five years, or both.

(d) Whoever, with intent to extort from any person, firm, association, or corporation, any money or other thing of value, [transmits in interstate commerce] *transmits in interstate or foreign commerce* any communication containing any threat to injure the property or reputation of the addressee or of another or the reputation of a deceased person or any threat to accuse the addressee or any other person of a crime, shall be fined not more than $500 or imprisoned not more than two years, or both.

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CHAPTER 44—FIREARMS

Sec.

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922. Unlawful acts.

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924. Penalties.

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929. Use of restricted ammunition.

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§ 922. Unlawful acts

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(d) It shall be unlawful for any licensed importer, licensed manufacturer, licensed dealer, or licensed collector to sell or otherwise dispose of any firearm or ammunition to any person knowing or having reasonable cause to believe that such person—

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(3) is an unlawful user of or addicted to [marihuana or any depressant or stimulant drug (as defined in section 201(v) of the Federal Food, Drug, and Cosmetic Act) or narcotic drug (as defined in section 4731(a) of the Internal Code of 1954] *marihuana or any depressant or stimulant substance or narcotic drug (as those terms are defined in section 102 of the Controlled Substances Act, 21 U.S.C. 802)*;

* * * * * * *

(g) It shall be unlawful for any person—

(3) who is an unlawful user of or addicted to [marihuana or any depressant or stimulant drug (as defined in section 201(v) of the Federal Food, Drug, and Cosmetic Act) or narcotic drug (as defined in section 4731(a) of the Internal Revenue Code of 1954)] *marihuana or any depressant or stimulant substance or narcotic drug (as those terms are defined in section 102 of the Controlled Substances Act, 21 U.S.C. 802)*;

* * * * * * *

(h) It shall be unlawful for any person—

* * * * * * *

(3) who is an unlawful user of or addicted to [marihuana or any depressant or stimulant drug (as defined in section 201(v) of the Federal Food, Drug, and Cosmetic Act) or narcotic drug (as defined in section 4731(a) of the Internal Revenue Code of 1954] *marihuana or any depressant or stimulant substance or narcotic drug (as those terms are defined in section 102 of the Controlled Substances Act, 21 U.S.C. 802)*;

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§ 924. Penalties

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(c) Whoever, during and in relation to any *felony described in the Controlled Substances Act (21 U.S.C. 801 et. seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or section 1 of the Act of September 15, 1980 (21 U.S.C. 955a), or any* crime of violence, including a crime of violence which provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device, for which he may be prosecuted in a court of the United States, uses or carries a firearm, shall, in addition to the punishment provided for such *felony or* crime of violence, be sentenced to imprisonment for five years. In the case of his second or subsequent conviction under this subsection, such person shall be sentenced to imprisonment for ten years. Notwithstanding any other provision of law, the court shall not place on probation or

suspend the sentence of any person convicted of a violation of this subsection, nor shall the term of imprisonment imposed under this subsection run concurrently with any other term of imprisonment including that imposed for the *felony or* crime of violence in which the firearm was used or carried. No person sentenced under this subsection shall be eligible for parole during the term of imprisonment imposed herein.

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§ 929. Use of restricted ammunition

(a) Whoever, during and in relation to the commission of a *felony described in the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.) or section 1 of the Act of September 15, 1980 (21 U.S.C. 855a), or a* crime of violence including a crime of violence which provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device for which he may be prosecuted in a court of the United States, uses or carries any handgun loaded with armor-piercing ammunition as defined in subsection (b), shall, in addition to the punishment provided for the commission of such *felony or* crime of violence be sentenced to a term of imprisonment for not less than five nor more than ten years. Notwithstanding any other provision of law, the court shall not suspend the sentence of any person convicted of a violation of this subsection, nor place him on probation, nor shall the term of imprisonment run concurrently with any other terms of imprisonment including that imposed for the felony *or crime of violence* in which the armor-piercing handgun ammunition was used or carried. No person sentenced under this subsection shall be eligible for parole during the term of imprisonment imposed herein.

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CHAPTER 47—FRAUD AND FALSE STATEMENTS

Sec.

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1028. Fraud and related activity in connection with identification documents.
1029. Fraud and related activity in connection with access devices.
1030. Fraud and related activity in connection with computers.

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§ 1028. Fraud and related activity in connection with indentification documents

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(e) This section does not prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of the United States, a State, or a political subdivision of a State, or of an intelligence agency of the United States, or any activity authorized under **[**title V of the Organized Crime Control Act of 1970 (18 U.S.C. note prec. 3481)**]** *Chapter 224 of this title.*

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§ 1029. Fraud and related activity in connection with access devices

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(f) This section does not prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of the United States, a State, or a political subdivision of a State, or of an intelligence agency of the United States, or any activity authorized under [title V of the Organized Crime Control Act of 1970 (18 U.S.C. note prec. 3481)] *Chapter 224 of this title.*

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§ 1030. Fraud and related activity in connection with computers.

(a) Whoever—

(1) knowingly accesses a computer without authorization, or having accessed a computer with authorization, uses the opportunity such access provides for purposes to which such authorization does not extend, and by means of such conduct obtains information that has been determined by the United States Government pursuant to an Executive order or statute to require protection against unauthorized disclosure for reasons of national defense or foreign relations, or any restricted data, as defined in paragraph r. of section 11 of the Atomic Energy Act of 1954, with the intent or reason to believe that such information so obtained is to be used to the injury of the United States, or to the advantage of any foreign nation; *or*

(2) knowingly accesses a computer without authorization, or having accessed a computer with authorization, uses the opportunity such access provides for purposes to which such authorization does not extend, and thereby obtains information contained in a financial record of a financial institution, as such terms are defined in the Right to Financial Privacy Act of 1978 (12 U.S.C. 3401 et seq.), or contained in a file of a consumer reporting agency on a consumer, as such terms are defined in the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.); [or]

[(3) knowing accesses a computer without authorization, or having accessed a computer with authorization, uses the opportunity such access provides for purposes to which such authorization does not extend, and by means of such conduct knowingly uses, modifies, destroys, or discloses information in, or prevents authorized use of, such computer, if such computer is operated for or on behalf of the Government of the United States and such conduct affects such operation;]

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(f) This section does not prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of the United States, a State, or a political subdivision of a State, or of an intelligence agency of the United States.

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CHAPTER 55—KIDNAPING

Sec.

1201. Kidnaping.

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§ 1201. Kidnaping

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(d) Whoever attempts to violate subsection (a)(4) *or (a)(5)* shall be punished by imprisonment for not more than twenty years.

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CHAPTER 65—MALICIOUS MISCHIEF

Sec.

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1365. Tampering with consumer products.
[1365.] *1366.* Destruction of an energy facility.

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§ [1365.] *1366.* Destruction of an energy facility

(a) Whoever knowingly and willfully damages the property of an energy facility in an amount that in fact exceeds $100,000, or damages the property of an energy facility in any amount and causes a significant interruption or impairment of a function of an energy facility, shall be punishable by a fine of not more than $50,000 or imprisonment for not more than ten years, or both.

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CHAPTER 87

Sec.
1791. Providing or possessing contraband in prison.
1792. Mutiny and riot prohibited.

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§ 1791. Providing or possessing contraband in prison

(a) Offense.—A person commits an offense if, in violation of a statute, or a regulation, rule, or order issued pursuant thereto—

(1) he provides, or attempts to provide, to an inmate of a [Federal penal or correctional facility] *Federal penal, detention, or correctional facility*—

(A) a firearm or destructive device;

(B) *ammunition or* any other weapon or object that may be used as a weapon or as a means of facilitating escape;

(C) a narcotic drug as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802), *lysergic acid diethylamide, or phencyclidine*;

(D) a controlled substance, [other than a narcotic drug, as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802] *other than a controlled substance described in subparagraph (C),* or an alcoholic beverage;

(E) United States currency; or

(F) any othe object; or

(2) being an inmate of a [Federal penal or correctional facility] *Federal penal, detention, or correctional facility,* he makes,

possesses, procures, or otherwise provides himself with, or attempts to make, possess, procure, or otherwise provide himself with, anything described in paragraph (1).

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[(c) Definitions.—As used in this section, "fire-arm" and "destructive device" have the meaning given those terms, respectively, in 18 U.S.C. 921(a)(3) and (4).]

(c) DEFINITIONS.—*As used in this section, "ammunition", "fire-arm", and "destructive device" have the meaning given those terms, respectively, in section 921 of title 18, United States Code.*

§ 1792. Mutiny and riot prohibited

Whoever instigates, connives, willfully attempts to cause, assists, or conspires to cause any mutiny or riot, at any [Federal penal or correctional facility] *Federal penal, deterntion, or correctional facility,* shall be imprisoned not more than ten years or fined not more than $25,000, or both.

CHAPTER 96—RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS

Sec.
1961. Definitions.

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1963. Criminal penalties.

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§ 1961. Definition

As used in this chapter—

(1) "racketeering activity" means (A) any act or threat involving murder, kidnapping, gambling, arson, robbery, bribery, extortion, dealing in obscene matter, or dealing in narcotic or other dangerous drugs, which is chargeable under State law and punishable by imprisonment for more than one year; (B) any act which is indictable under any of the following provisions of title 18, United States Code; Section 201 (relating to bribery), section 224 (relating to sports bribery) sections 471, 472, and 473 (relating to counterfeiting), section 659 (relating to theft from interstate shipment) if the act indictable under section 659 is felonious, section 664 (relating to embezzlement from pension and welfare funds) sections 891–894 (relating to extortionate credit transactions), section 1084 (relating to the transmission of gambling information), section 1341 (relating to mail fraud), section 1343 (relating to wire fraud), sections 1461–1465 (relating to obscene matter), section 1503 (relating to obstruction of justice), section 1510 (relating to obstruction of criminal investigations), section 1511 (relating to the obstruction of State or local law enforcment), *section 1512 (relating to tampering with a witness, victim, or an informant), section 1513 (relating to retaliating against a witness, victim, or an infor-*

mant), section 1951 (relating to interference with commerce, robbery, or extortion),

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§ 1963. Criminal penalties

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(c) All right, title, and interest in property described in subsection (a) vests in the United States upon the commission of the act giving rise to forfeiture under this section. Any such property that is subseqently transferred to a person other than the defendant may be subject to a special verdit of forfeiture and thereafter shall be ordered forefeited to the United States, unless the transferee establishes in a hearing pursuant to subsection [m]*(l)* that he is a bone fide purchaser for value of such property who at the time of purchase was reasonably without cause to believe that the property was subject to forfeiture under this section.

[(e)]*(d)*(1) Upon application of the United States, the Court may enter a restraining order or injunction, require the execution of a satisfactory performance bond, or take any other action to preserve the availablity of property described in subsection (a) for forfeiture under this section—

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[(f)]*(e)* Upon conviction of a person under this section, the court shall enter a judgment of forfeiture of the property to the United States and shall also authorize the Attorney General to seize all property ordered forfeited upon such terms and conditions as the court shall deem proper.

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[(g)]*(f)* Following the seizure of property ordered forfeited under the section, the Attorney General shall direct the disposition of the property by sale or any other commerically feasible means, making due provision for the rights of any innocent persons.

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[(h)]*(g)* With respect to property ordered forfeited under this section, the Attorney General is authorized to—

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[(i)]*(h)* The Attorney General may promulgate regulations with respect to—

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[(j)]*(i)* Except as provided in subsection [(m)]*(l)*, no party claiming an interest in property subject to forfeiture under this section may—

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[(k)]*(j)* The district courts of the United States shall have jurisdiction to enter orders as provided in this section without regard to the location of any property which may be subject to forfeiture under this section or which has been ordered forfeited under this section.

[l]*(k)* In order to facilitate the identification or location of property declared forfeited and to facilitate the disposition of petitions for remission or mitigation of forfeiture, after the entry of an order declaring property forfeited to the United States the court man, upon application of the United States, order that the testimony of any witness relating to the property forfeited be taken by deposition and that any designated book, paper, document, record, recording, or other material not privileged be produced at the same time and place, in the same manner as provided for the taking of depositions under Rule 15 of the Federal Rules of Criminal Procedure.

[m]*(l)*(1) Following the entry of an order of forfeiture under this section, the United States shall publish notice of the order and of its intent to dispose of the property in such manner as the Attorney General may direct. The Government may also, to the extent practicable, provide direct written notice to any person known to have alleged an interest in the property that is the subject of the order of forfeiture as a substitute for published notice as to those persons so notified.

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CHAPTER 113—STOLEN PROPERTY

Sec.

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2315. Sale or receipt of stolen goods, securities, moneys, or fraudulent State tax stamps.

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[2320. Trafficking in counterfeit goods or services.]
2320. Trafficking in certain motor vehicles or motor vehicle parts.
2321. Trafficking in counterfeit goods or services.

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§ 2315. Sale or receipt of stolen goods, securities, moneys, or fraudulent State tax stamps

Whoever receives, *possesses,* conceals, stores, barters, sells, or disposes of any goods, wares, or merchandise, securities, or money of the value of $5,000 or more, or pledges or accepts as security for a loan any goods, wares, or merchandise, or securities, of the value of $500 or more, [moving as, or which are a part of, or which constitute interstate or foreign commerce,] *which have crossed a State or United States boundary after being stolen, unlawfully converted, or taken,* knowing the same to have been stolen, unlawfully converted, or taken; or

Whoever receives, *possesses,* conceals, stores, barters, sells, or disposes of any falsely made, forged, altered, or counterfeited securities or tax stamps; or pledges or accepts as security for a loan any falsely made forged, altered, or counterfeited securities or tax stamps, [moving as, or which are a aprt of, or which constitute interstate or foreign commerce,] *which have crossed a State or United States boundary after being stolen, unlawfully converted, or*

taken, knowing the same to have been so falsely made, forged, altered, or counterfeited; or

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§ [2320.] *2321.* Trafficking in counterfeit goods or services

(a) Whoever intentionally traffics or attempts to traffic in goods or services and knowingly uses a counterfeit mark on or in connection with such goods or services shall, if an individual, be fined not more than $250,000 or imprisoned not more than five years, or both, and, if a person other than an individual, be fined not more than $1,000,000. In the case of an offense by a person under this section that occurs after that person is convicted of another offense under this section, the person convicted, if an individual, shall be fined not more than $1,000,000 or imprisoned not more than fifteen years, or both, and if other than an individual, shall be fined not more than $5,000,000.

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CHAPTER 201—GENERAL PROVISIONS

Sec.

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3013. Special assessment on convicted persons.

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§ 3013. Special assessment on convicted persons

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(b) Such amount so assessed shall be collected in the manner that fines are collected in criminal cases.

(c) No assessment shall be imposed on any person convicted of an offense for which local rules of the district court, or other Federal law, establishes that collateral may be posted in lieu of appearance in court.

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CHAPTER 204—REWARDS FOR INFORMATION CONCERNING TERRORIST ACTS

Sec.

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3076. Eligibility for witness security program.

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§ 3076. Eligibility for witness security program

Any individual (and the immediate family of such individual) who furnishes information which would justify a reward by the Attorney General under this chapter or by the Secretary of State under section 36 of the State Department Basic Authorities Act of 1956 may, in the discretion of the Attorney General, participate in the Attorney General's witness security program authorized under

[title V of the Organized Crime Control Act of 1970.] *Chapter 224 of this title.*

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CHAPTER 207—RELEASE AND DETENTION PENDING JUDICIAL PROCEEDINGS

Sec.

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3142. Release or detention of a defendant pending trial.

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§ 3142. Release or detention of a defendant pending trial

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(c) RELEASE ON CONDITIONS.—If the judicial officer determines that the release described in subsection (b) will not reasonably assure the appearance of the person as required or will endanger the safety of any other person or the community, he shall order the pretrial release of the person—

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(2) subject to the least restrictive further condition, or combination of conditions, that he determines will reasonably assure the appearance of the person as required and the safety of any other person and the community, which may include the condition that the person—

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(J) undergo available medical *psychological,* or psychiatric treatment, including treatment for drug or alcohol dependency, and remain in a specified institution if required for that purpose;

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(f) DETENTION HEARING.—The judicial officer shall hold a hearing to determine whether any condition or combination of conditions set forth in subsection (c) will reasonably assure the appearance of the person as required and the safety of any other person and the community in a case—

(1) upon motion of the attorney for the Government, that involves—

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(D) [any felony committed after the person had been convicted of two or more prior offenses] *any felony if the person has been convicted of two or more offenses* described in subparagraphs (A) through (C), or two or more State or local offenses that would have been offenses described in subparagraphs (A) through (C) if a circumstance giving rise to Federal jurisdiction had existed, *or a combination of such offenses*; or

(2) Upon motion of the attorney for the Government or upon the judicial officer's own motion, that involves—

(A) a series risk that the person will flee; *or*

(B) a serious risk that the person will obstruct or attempt to obstruct justice, or threaten, injure, or intimidate, or attempt to threaten, injure, or intimidate, a prospective witness or juror.

The hearing shall be held immediately upon the person's first appearance before the judicial officer unless that person, or the attorney for the Government, seeks a continuance. Except for good cause, a continuance on motion of the person may not exceed five days, and a continuance on motion of the attorney for the Government may not exceed three days. During a continuance, the person shall be detained, and the judicial officer, on motion of the attorney for the Government or on his own motion, may order that, while in custody, a person who appears to be a narcotics addict receive a medical examination to determine whether he is an addict. At the hearing, the person has the right to be represented by counsel, and, if he is financially unable to obtain adequate representation, to have counsel appointed for him. The person shall be afforded an opportunity to testify, to present witnesses on his own behalf, to cross-examine witnesses who appear at the hearing, and to present information by proffer or otherwise. The rules concerning admissibility of evidence in criminal trials do not apply to the presentation and consideration of information at the hearing. The facts the judicial officer uses to support a finding pursuant to subsection (e) that no condition or combination of conditions will reasonably assure the safety of any other person and the community shall be supported by clear and convincing evidence. The person may be detained pending completion of the hearing.

The hearing may be reopened, before or after a determination by the judicial officer, at any time prior to trial if the judicial officer finds that information exists that was not known to the movant at the time of the hearing and that has a material bearing on the issue whether there are conditions of release that will reasonably assure the appearance of the person as required and the safety of any other person and the community.

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CHAPTER 224—PROTECTION OF WITNESSES

Sec.

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3522. Probationers and parolees.

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§ 3522. Probationers and parolees

(a) A probation officer may, upon the request of the Attorney General, supervise any person provided protection under this chapter who is on probation or parole under State law, if the State involved consents to such supervision. Any person so supervised shall be under Federal jurisdiction during the period of supervision and shall, during that period be subject to all laws of the United States which pertain to [parolees] *probationers or parolees, as the case may be.*

(b) The failure by any person provided protection under this chapter who is supervised under [subsection (a)] *probation or parole* to comply with the memorandum of understanding entered into by that person pursuant to section 3521(d) of this title [shall] *may* be grounds for the revocation of probation or parole, as the case may be.

[(c) The United States Parole Commission and the Chairman of the Commission shall have the same powers and duties with respect to a probationer or parolee transferred from State supervision pursuant to this section as they have with respect to an offender under chapter 311 of this title. The provisions of sections 4201 through 4204, 4205(a), (e), and (h), 4206 through 4216, and 4218 of this title shall apply following a revocation of probation or parole under this section.]

[(d)] *(c)* If a person provided protection under this chapter who is on probation or parole and is supervised under subsection (a) of this section has been ordered by the State court which imposed sentence on the person to pay a sum of money to the victim of the offense involved for damage caused by the offense, that penalty or award of damages may be enforced as though it were a civil judgment rendered by a United States district court.

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CHAPTER 232—MISCELLANEOUS SENTENCING PROVISIONS

Sec.
3663. Order of restitution.

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3672. Duties of Director of Administrative Office of the United States Courts.
3773. Definitions for sentencing provisions.

Effective Date of Chapter

Section 235(a)(1) of Pub.L. 98-473, Title II, c. II, Oct. 12, 1984, 98 Stat. 2031, provided that the renumbering of sections 3577 to 3580, 3611, to 3612, 3615, 3617, 3620, and 3656 as sections 3661 to 3672, respectively, their designation within a new chapter 232, and the addition of section 3673 shall be effective Nov. 1, 1986.

* * * * * * *

§ 3663. Order of restitution

(a)(1) The court, when sentencing a defendant convicted of an offense under this title or under subsection (h), (i), (j), or (n) of section 902 of the Federal Aviation Act of 1958 (49 U.S.C. 1472), may order, in addition to [or in lieu of] any other penalty authorized by law, that the defendant make restitution to any victim of the offense.

* * * * * * *

(h) An order of restitution may be enforced by the United States in the manner provided in [sections 3812 and 3813] *sections 3612 and 3613* or in the same manner as a judgment in a civil action,

and by the victim named in the order to receive the restitution in the same manner as a judgment in a civil action.

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§ 3672. Duties of Director of Administrative Office of the United States Courts

The Director of the Administrative Office of the United States Courts, or his authorized agent, shall investigate the work of the probation officers and make recommendations concerning the same to the respective judges and shall have access to the records of all probation officers.

* * * * * * *

He shall incorporate in his annual report a statement concerning the operation of the probation system in such courts.

He shall have the authority to contract with any appropriate public or private agency or person for the detection of and care in the community of an offender who is an addict or a drug-dependent person within the meaning of section 2 of the Public Health Service Act (42 U.S.C. 201). This authority shall include, but not be limited to, providing equipment and supplies; testing; medical, educational, social, psychological, and vocational services; corrective and preventive guidance and training; and other rehabilitative services designed to protect the public and benefit the addict by eliminating his dependence on addicting drugs, or by controlling his dependence and his susceptibility to addiction. He may negotiate and award such contracts without regard to section 3709 of the Revised Statutes (41 U.S.C. 5).

He shall pay for presentence studies and reports by qualified consultants and presentence examinations and reports by psychiatric or psychological examiners ordered by the court under section 3552 (b) or (c) except for studies conducted by the Bureau of Prisons.

CHAPTER [232] *232A*—SPECIAL FORFEITURE OF COLLATERAL PROFITS OF CRIME

Sec.

[3671.] ***3681.*** Order of special forfeiture.
[3672.] ***3682.*** Notice of victims of order of special forfeiture.

§ [3671.]*3681.* Order of special forfeiture

(a) Upon the motion of United States attorney made at any time after conviction of a defendant for an offense against the United States resulting in physical harm to an individual, and after notice to any interested party, the court shall, if the court determines that the interest of justice or an order of restitution under [chapter 227 or 231 of] this title so requires, order such defendant to forfeit all or any part of proceeds received or to be received by that defendant, or a transferee of that defendant, from a contract relating to a depiction of such crime in a movie, book, newspaper, magazine, radio or television production, or live entertainment of any kind, or an expression of that defendant's thoughts, opinions, or emotions regarding such crime.

§ [3672.]*3682.* Notice to victims of order of special forfeiture

The United States attorney shall, within thirty days after the imposition of an order under this chapter and at such other times as the Attorney General may require, publish in a newspaper of general circulation in the district in which the offense for which a defendant was convicted occurred, a notice that states—

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CHAPTER 311—PAROLE

Sec.

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4216. [Young adult offenders.] *Repealed.*

[§ 4216. Young adult offenders

[In the case of a defendant who has attained his twenty-second birthday but has not attained his twenty-sixth birthday at the time of conviction, if, after taking into consideration the previous record of the defendant as to delinquency or criminal experience, his social background, capabilities, mental and physical health, and such other factors as may be considered pertinent, the court finds that there are reasonable grounds to believe that the defendant will benefit from the treatment provided under the Federal Youth Corrections Act (18 U.S.C., chap. 402) sentence may be imposed pursuant to the provisions of such Act.]

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FEDERAL RULES OF CRIMINAL PROCEDURE FOR THE UNITED STATES DISTRICT COURTS

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Rule 6. The Grand Jury

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(e) RECORDING AND DISCLOSURE OF PROCEEDINGS.—

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(3) EXCEPTIONS.—

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(C) Disclosure otherwise prohibited by this rule of matters occurring before the grand jury may also be made—

(i) when so directed by a court preliminarily to or in connection with a judicial proceeding;

(ii) when permitted by a court at the request of the defendant, upon a showing that grounds may exist for a motion to dismiss the indictment because of matters occurring before the grand jury; **[**or**]**

(iii) when the disclosure is made by an attorney for the government to another federal grand jury**[**.**]**; *or*

(iv) when permitted by a court at the request of an attorney for the government, upon a showing that such matters may disclose a violation of state criminal law, to an appropriate official of a state or subdivision of a state for the purpose of enforcing such law.

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Rule 12.2. Notice of Insanity Defense or Expert Testimony of Defendant's Mental Condition

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(c) MENTAL EXAMINATION OF DEFENDANT.—In an appropriate case the court may, upon motion of the attorney for the government, order the defendant to submit to an examination pursuant to 18 U.S.C. *4241 or* 4242. No statement made by the defendant in the course of any examination provided for by this rule, whether the examination be with or without the consent of the defendant, no testimony by the expert based upon such statement, and no other fruits of the statement shall be admitted in evidence against the defendant in any criminal proceeding except on an issue respecting mental condition on which the defendant has introduced testimony.

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Rule 32. Sentence and Judgment

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(c) PRESENTENCE INVESTIGATION.—

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(2) REPORT.—The report of the presentence investigation shall contain—

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(B) the classification of the offense and of the defendant under the categories established by the Sentencing Commission pursuant to section 994(a) of title 28, that the probation officer believes to be applicable to the defendant's case; the kinds of sentence and the sentencing range suggested for such a category of offense committed by such a category of defendant as set forth in the guidelines issued by the Sentencing Commission pursuant to 28 U.S.C. 994(a)(1); and an explantion by the probation officer of any factors that may indicate that a sentence

of a different kind or of a different length [than] *from* one within the applicable guideline would be more appropriate under all the circumstances;

* * * * * * *

Rule 32.1 Revocation or Modification of Probation—

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(b) MODIFICATION OF PROBATION.—A hearing and assistance of counsel are required before the terms or conditions of probation can be modified, unless the relief *to be* granted to the probationer upon his request or the court's own motion is favorable to him[.], *and the attorney for the government, after having been given notice of the proposed relief and a reasonable opportunity to object, has not objected.*

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Rule 35. Correction of Sentence

"(a) CORRECTION OF A SENTENCE ON REMAND.—The court shall correct a sentence that is determined on appeal under 18 U.S.C. 3742 to have been imposed in violation of law, to have been imposed as a result of [an incorrect] *a clearly erroneous construction or* application of the sentencing guidelines, or to be unreasonable, upon remand of the case to the court—

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TITLE 19.—CUSTOMS DUTIES

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CHAPTER 4—TARIFF ACT OF 1930

Sec.

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1608. Seizure; claims; judicial condemnation.

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[1600. Application of the customs laws to other seizures by customs officers [New].] *Repealed.*

1616a. Transfer of forfeited property [New].

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(c) TRANSFER OF FORFEITED PROPERTY.—

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§ 1608. Seizure; claims; judicial condemnation

Any person claiming such vessel, vehicle, aircraft, merchandise, or baggage may at any time within twenty days from the date of the first publication of the notice of seizure file with the appropriate customs officer a claim stating his interest therein. Upon the filing of such claim, and the giving of a bond to the United States in the penal sum of [$2,500] *$5,000* or 10 percent of the value of the claimed property, whichever is lower, but not less than $250, with sureties to be approved by such customs officer, conditioned

that in case of condemnation of the articles so claimed the obligor shall pay all the costs and expenses of the proceedings to obtain such condemnation, such customs officer shall transmit such claim and bond, with a duplicate list and description of the articles seized, to the United States attorney for the district in which seizure was made, who shall proceed to a condemnation of the merchandise or other property in the manner prescribed by law.

[§ 1616. Disposition of forfeited property

[(a) RETENTION OR TRANSFER.—Notwithstanding any other provision of the law, the Commissioner is authorized to retain forfeited property, or to transfer such property on such terms and conditions as he may determine to—

[(1) any other Federal agency; or

[(2) any State or local law enforcement agency which participated directly in any of the acts which led to the seizure or forfeiture of the property.

[The Secretary of the Treasury shall ensure the equitable transfer pursuant to paragraph (2) of any forfeited property to the appropriate State or local law enforcement agency so as to reflect generally the contribution of any such agency participating directly in any of the acts which led to the seizure or forfeiture of such property. A decision by the Secretary pursuant to paragraph (2) shall not be subject to review. The United States shall not be liable in any action arising out of the use of any property the custody of which was transferred pursuant to this section to any non-Federal agency.

[(b) STATE OR LOCAL PROCEEDINGS.—The Secretary of the Treasury may order the discontinuance of any forfeiture proceedings under this chapter in favor of the institution of forfeiture proceedings by State or local authorities under an appropriate State or local statute. After the filing of a complaint for forfeiture under this chapter, the Attorney General may seek dismissal of the complaint in favor of forfeiture proceedings under State or local law.

[(c) TRANSFER OF CUSTODY TO STATE OR LOCAL OFFICIALS.—Whenever forfeiture proceedings are discontinued by the United States in favor of State or local proceedings, the United States may transfer custody and possession of the seized property to the appropriate State or local official immediately upon the initiation of the proper actions by such officials.

[(d) NOTICE OF DISCONTINUANCE OF FEDERAL PROCEEDINGS.—Whenever forfeiture proceedings are discontinued by the United States in favor of State or local proceedings, notice shall be sent to all known interested parties advising them of the discontinuance or dismissal. The United States shall not be liable in any action arising out of the seizure, detention, and transfer of seized property to State or local officials].

Similar Enactment by Pub. L. 98–573

Another section 616 of the Tariff Act of 1930, added by Pub. L. 98–573, is set out hereunder as section 1616a of this title.

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§ 1616a. Transfer of forfeited property

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(c) TRANSFER OF FORFEITED PROPERTY.—The Secretary of the Treasury may transfer any property forfeited under this chapter to *any other Federal agency or to any State or local law enforcement agency which participated directly in the seizure or forfeiture of the property.*

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TITLE 21—FOOD AND DRUGS

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CHAPTER 13—DRUG ABUSE PREVENTION AND CONTROL

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Sec.
802. Definitions.

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812. Schedules of controlled substances.

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841. Prohibited acts A.

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845a. Distribution in or near schools [New].

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873. Cooperative arrangements.

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878. Powers of enforcement personnel.

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881. Forfeitures.

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960. Prohibited acts A.

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§ 802. Definitions

As used in this chapter:

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(14) The term "isomer" means **[**the**]** *any* optical isomer, except as used in schedule I(c) and schedule II(a)(4). As used in schedule I(c), the term "isomer" means the optical, positional, or geometric isomer. As used in schedule II(a)(4), the term "isomer" means **[**the**]** *any* optical or geometric isomer.

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§ 812. Schedules of controlled substances

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Schedule II

(a) Unless specifically excepted or unless listed in another schedule, any of the following substances whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

* * * * * * *

[(4) Coca leaves and any salt, compound, derivative, or preparation of coca leaves (including cocaine and ecgonine and their salts, isomers, derivatives, and salts of isomers and derivatives, and any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, except that the substances shall not include decocainized coca leaves or extraction of coca leaves, which extractions do not contain cocaine or ecgonine.]

(4) coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed; cocaine, its salts, optical and geometric isomers, and salts of isomers; ecgonine, its derivatives, their salts, isomers, and salts of isomers; or any compound, mixture, or preparation which contains any quantity of any of the substances referred to in this paragraph.

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§ 841. Prohibited acts A

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Penalties

(b) Except as otherwise provided in section 845 or 845a of this title, any person who violates subsection (a) of this section shall be sentenced as follows:

(1)(A) In the case of a violation of subsection (a) of this section involving—

[(i) 100 grams or more of a controlled substance in schedule I or II which is a mixture or substance containing a detectable amount of a narcotic drug other than a narcotic drug consisting of—

[(I) coca leaves;

[(II) a compound, manufacture, salt, derivative, or preparation of coca leaves; or

[(III) a substance chemically identical thereto;]

(i) 100 grams or more of a mixture or substance containing a detectable amount of a narcotic drug in schedule I or II other than a narcotic drug consisting of—

(I) coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;

(II) cocaine, its salts, optical and geometric isomers, and salts of isomers;

(III) ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

(IV) any compound, mixture, or preparation which contains any quantity of any of the substances referred to in subclauses (I) through (III);

(ii) a kilogram or more of *a mixture or substance containing a detectable amount of* any other controlled substance in schedule I or II which is a narcotic drug;

(iii) 500 grams or more of *a mixture or substance containing a detectable amount of* phencyclidine (PCP); or

(iv) 5 grams or more of *a mixture or substance containing a detectable amount of* lysergic acid diethylamide (LSD); such person shall be sentenced to a term of imprisonment of not more than 20 years, a fine of not more than $250,000, or both. If any person commits such a violation after one or more prior convictions of him for an offense punishable under this paragraph, or for a felony under any other provision of this subchapter or subchapter II of this chapter or other law of a State, the United States, or a foreign country relating to narcotic drugs, marihuana, or depressant or stimulant substances, have become final, such person shall be sentenced to a term of imprisonment of not more than 40 years, a fine of not more than $500,000, or both [1] *Any sentence imposing a term of imprisonment under this paragraph shall, in the absence of such a prior conviction, impose a special parole term of at least 4 years in addition to such term of imprisonment and shall, if there was such a prior conviction, impose a special parole term of at least 8 years in addition to such term of imprisonment.*

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(5) Notwithstanding *the fines provided in* paragraph (1), any person who violates subsection (a) of this section by cultivating a controlled substance on Federal property shall be fined not more than—

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§ 845a. Distribution in or near schools

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Second offenders

(b) Any person who violates section 841(a)(1) of this title by distributing a controlled substance in or on, or within one thousand feet of, the real property comprising a public or private elementary or secondary school after a prior conviction or convictions under subsection (a) of this section have become final is punishable (1) by a term of imprisonment of not less than three years and not more than life imprisonment and (2) at least three times any special *parole* term authorized by section 841(b) of this title for a second or subsequent offense involving the same controlled substance and schedule.

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[1] So in original. A period probably should be inserted.

§ 873. Cooperative arrangements; Powers of Attorney General

(a) The Attorney General shall cooperate with local, State, and Federal agencies concerning traffic in controlled substances and in suppressing the abuse of controlled susbstances. To this end, he is authorized to—

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(5) conduct programs of eradication aimed at destroying wild or illicit growth of plant species from which controlled substances may be extracted; [and]

(6) assist State and local governments in suppressing the diversion of controlled substances from legitimate medical, scientific, and commercial channels by—

(A) making periodic assessments of the capabilities of State and local governments to adequately control the diversion of controlled substances;

(B) providing advice and counsel to State and local governments on the methods by which such governments may strengthen their controls against diversion; and

(C) establishing cooperative investigative efforts to control diversion[.]; *and*

(7) notwithstanding any other provision of law, enter into contractual agreements with State and local law enforcement agencies to provide for cooperative enforcement and regulatory activities under this Act.

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§ 878. Powers of enforcement personnel

(a) Any officer or employee of the Drug Enforcement Administration *or any State or local law enforcement officer* designated by the Attorney General may—

(1) carry firearms;

(2) execute and serve search warrants, arrest warrants, administrative inspection warrants, subpenas, and summonses issued under the authority of the United States;

(3) make arrests without warrant (A) for any offense against the United States committed in his presence, or (B) for any felony, cognizable under the laws of the United States, if he has probable cause to believe that the person to be arrested has committed or is committing a felony;

(4) make seizures of property pursuant to the provisions of this subchapter; and

(5) perform such other law enforcement duties as the Attorney General may designate.

(b) State and local law enforcement officers performing functions under this section shall not be deemed Federal employees and shall not be subject to provisions of law relating to Federal employees, except that such officers shall be subject to section 3374(c) of title 5, United States Code.

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§ 881. Forfeitures

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(b) SEIZURE PURSUANT TO SUPPLEMENTAL RULES FOR CERTAIN ADMIRALTY AND MARITIME CLAIMS.—Any property subject to civil [or criminal] forfeiture to the United States under this subchapter may be seized by the Attorney General upon process issued pursuant to the Supplemental Rules for Certain Admiralty and Maritime Claims by any district court of the United States having jurisdiction over the property, except that seizure without such process may be made when—

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(4) the Attorney General has probable cause to believe that the property is subject to civil [or criminal] forfeiture under this subchapter.

In the event of seizure pursuant to paragraph (3) or (4) of this subsection, proceedings under subsection (d) of this section shall be instituted promptly.

The Government may request the issuance of a warrant authorizing the seizure of property subject to forfeiture under this section in the same manner as provided for a search warrant under the Federal Rules of Criminal Procedure.

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(i) STAY OF CIVIL FORFEITURE PROCEEDINGS.—The filing of an indictment or information alleging a violation of this subchapter or subchapter II of this chapter, *or a violation of State or local law that could have been charged under this subchapter or subchapter II of this chapter,* which is also related to a civil forfeiture proceeding under this section shall, upon motion of the United States and for good cause shown, stay the civil forfeiture proceeding.

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§ 960. Prohibited acts A

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Penalties

(b)(1) In the case of a violation under subsection (a) of this section involving—

(A) 100 grams or more of a mixture or substance containing a detectable amount of a narcotic drug in schedule I or II other than a narcotic drug consisting of—

[(i) coca leaves;

[(ii) a compound, manufacture, salt, derivative, or preparation of coca leaves; or

[(ii) a substance chemically identical thereto;]

(i) coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;

(ii) cocaine, its salts, optical and geometric isomers, and salts of isomers;

(iii) ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

(iv) any compound, mixture, or preparation which contains any quantity of any of the substances referred to in clauses (i) through (iii);

(B) a kilogram or more of *a mixture of substance containing a detectable amount of* any other narcotic drug in schedule I or II;

(C) 500 grams or more of *a mixture or substance containing a detectable amount of* phencyclidine (PCP);

(D) 5 grams or more of *a mixture or substance containing a detectable amount of* lysergic acid diethylamide (LSD);

the person committing such violation shall be imprisoned for not more than twenty years, or fined not more than $250,000, or both. *If a sentence under this paragraph provides for imprisonment, the sentence shall include a special parole term of not less than four years in addition to such term if imprisonment.*

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(3) In the case of a violation under subsection (a) of this section with respect to less than 50 kilograms of marihuana, less than 10 kilograms of hashish, less than one kilogram of hashish oil, or any quanity of a controlled substance in schedule III, or V, the person committing such violation shall[, except as provided in paragraph (4)] be imprisoned not more than five years, or be fined not more than $50,000, or both. If a sentence under this paragraph provides for imprisonment, the sentence shall, in addition to such term of imprisonment, include (A) a special parole term of not less than two years if such controlled substance is in schedule I, II, III, or (B) a special parole term of not less than one year if such controlled substance is in schedule IV.

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TITLE 28.—JUDICIARY AND JUDICIAL PROCEDURE

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CHAPTER 31—THE ATTORNEY GENERAL

Sec.

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524. Availability of appropriations.

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§ 524. Availability of appropriations

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(c)(1) There is established in the United States Treasury a special fund to be known as the Department of Justice Assets Forfeiture Fund (hereinafter in this subsection referred to as the "fund") which shall be available to the Attorney General without fiscal year limitation in such amounts as may be specified in General without fiscal year limitation in such amounts as may be specified

in appropriations Acts for the following purposes of the Department of Justice—

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(E) for equipping for law enforcement functions of forfeited vessels, vehicles, and aircraft retained as provided by law for official use by *the Federal Bureau of Investigation, the United States Marshals Service,* the Drug Enforcement [Administration] *Administration,* or the Immigration and Naturalization Service; and

* * * * * * *

(4) There shall be deposited in the fund all amounts from the forfeiture of property under any law enforced or administered by the Department of Justice [remaining after the payment of expenses for forfeiture and sale authorized by law.] *, except all proceeds of forfeitures available for use by the Secretary of the Treasury or the Secretary of the Interior pursuant to section 11(d) of the Endangered Species Act (16 U.S.C. 1540(d)) or section 6(d) of the Lacey Act Amendments of 1981 (16 U.S.C. 3375(d)).*

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CHAPTER 58—UNITED STATES SENTENCING COMMISSION

Sec.

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992. Terms of office; compensation.

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994. Duties of the Commission.

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§ 992. Terms of office; compensation

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(c) The Chairman of the Commission shall hold a full-time position and shall be compensated during the term of office at the annual rate at which judges of the United States courts of appeals are compensated. The voting members of the Commission, other than the Chairman, shall hold full-time positions until the end of the first six years after the sentencing guidelines go into effect pursuant to [section 225(a)(1)(B)(ii) of the Sentencing Reform Act of 1983] *section 235(a)(1)(B)(ii) of the Sentencing Reform Act of 1984,* and shall be compensated at the annual rate at which judges of the United States courts of appeals are compensated. Thereafter, the voting members of the Commission, other than the Chairman, shall hold part-time positions and shall be paid at the daily rate at which judges of the United States courts of appeals are compensated. A Federal judge may serve as a member of the Commission without resigning his appointment as a Federal judge.

(d) The provisions of sections 44(c) and 134(b) of this title, regarding the residence of judges, shall not apply to any judge holding a full-time position on the Commission pursuant to subsection (c) of this section.

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§ 994. Duties of the Commission

(a) The Commission, by affirmative vote of at least four members of the Commission, and pursuant to its rules and regulations and consistent with all pertinent provisions of this title and title 18, United States Code, shall promulgate and distribute to all courts of the United States and to the United States Probation System—

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(2) general policy statements regarding application of the guidelines or any other aspect of sentencing or sentence implementation that in the view of the Commission would further the purposes set forth in section 3553(a)(2) of title 18, United States Code, including the appropriate use of—

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[(C) the sentence modification provisions set forth in sections 3563(c), 3573, and 3582(c) of title 18;]

(C) the sentence modification provisions set forth in sections 3563(c), 3564, 3573, 3582(c), and 3583(e) of title 18;

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[(3) guidelines or general policy statements regarding the appropriate use of the probation revocation provisions set forth in section 3565 of title 18, and the provisions for modification of the term or conditions of probation or supervised release set forth in sections 3563(c), 3564(d), and 3583(e) of title 18.]

(3) guidelines or general policy statements regarding the appropriate use of the provisions for revocation of probation and supervised release set forth in sections 3565 and 3583(e) of title 18, and the provisions for modification of the term or conditions of probation and supervised release set forth in sections 3563(c), 3564, and 3583(e) of title 18.

(b) The Commission, in the guidelines promulgated pursuant to subsection (a)(1), shall, for each category of offense involving each category of defendant, establish a sentencing range that is consistent with all pertinent provisions of title 18, United States Code. If a sentence specified by the guidelines includes a term of imprisonment, the maximum of the range established for such a term shall not exceed the minimum of that range by more than 25 per centum, *except that if the maximum of the range is life imprisonment, the minimum shall not be less than thirty-years' imprisonment.*

* * * * * * *

(h) The Commission shall assure that the guidelines will specify a sentence to a term of imprisonment at or near the maximum term authorized [by section 3581(b) of title 18, United States Code,] for categories of defendants in which the defendant is eighteen years old or older and—

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(q) The Commission, [within three years of the date of enactment of the Sentencing Reform Act of 1983] *not later than one year after the initial set of sentencing guidelines promulgated under subsection (a) goes into effect,* and thereafter whenever it finds it

advisable, shall recommend to the Congress that it raise or lower the grades, or otherwise modify the maximum penalties, of those offenses for which such an adjustment appears appropriate.

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(t) If the Commission reduces the term of imprisonment recommended in the guidelines applicable to a particular offense or category of offenses, it shall specify *III what circumstances and* by what amount the sentences of prisoners serving terms of imprisonment [that are outside the applicable guidelines ranges] for the offense may be reduced.

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CHAPTER 123—FEES AND COSTS

Sec.

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1921. United States marshal's fees.

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§ 1921. United States marshals' fees

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No mileage fees shall be collected for services or endeavors to serve in the District of Columbia;

The marshal may require a deposit to cover all fees and expenses herein prescribed.

Notwithstanding the provisions of section 3302 of title 31, the United States Marshals Service is authorized, to the extent provided in appropriations acts, to credit to its appropriation account all fees, commissions, and expenses collected for—

(1) the service of civil process, including complaints, summonses, subpenas, and similar process; and

(2) seizures, levies, and sales associated with judicial orders of execution,

by the United States Marshals Service and to use such credited amounts for the purpose of carrying out such activities.

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Title 29—Labor

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CHAPTER 18—EMPLOYEE RETIREMENT INCOME SECURITY PROGRAM

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Sec.

1111. Persons prohibited from holding certain positions.

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§ 1111. Persons prohibited from holding certain positions

(a) CONVICTION OR IMPRISONMENT.—

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(2) as a consultant or adviser to an employee benefit plan, including but not limited to any [entity] *person* whose activities are in whole or substantial part devoted to providing goods or services to any employee benefit plan, or

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Title 31.—Money and Finance

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CHAPTER 53—MONETARY TRANSACTIONS

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Subchapter II—Records and Reports on Monetary Instruments Transactions

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5316. Reports on exporting and importing monetary instruments.

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§ 5316. Reports on exporting and importing monetary instruments

(a) Except as provided in subsection (c) of this section, a person or an agent or bailee of the person shall file a report under subsection (b) of this section when the person, agent, or bailee knowingly—

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(2) receives monetary instruments of more than [$5,000] *$10,000* at one time transported into the United States from or through a place outside the United States.

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PUBLIC LAW 98-473—OCT. 12, 1984

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TITLE II

This title may be cited as the "Comprehensive Crime Control Act of 1984."

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CHAPTER II—SENTENCING REFORM

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SEC. 212. (a) Title 18 of the United States Code is amended by—

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"§ 3552. Presentence reports

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"(b) PRESENTENCE STUDY AND REPORT BY BUREAU OF PRISONS.—If the court, before or after its receipt of a report specified in subsection (a) or (c), desires more information than is otherwise available ot it as a basis for determining the sentence to be imposed on a defendant found guilty of a misdemeanor or felony, it may order a study of the defendant. The study shall be conducted in the local community by qualified consultants unless the sentencing judge finds that there is a compelling reason for the study to be done by the Bureau of Prisons or there are no adequate professional resources available in the local community to perform the study. The period of the study shall [take] *be* no more than sixty days. The order shall specify the additional information that the court needs before determining the sentence to be imposed. Such an order shall be treated for administrative purposes as a provisional sentence of imprisonment for the maximum term authorized by section 3581(b) for the offense committed. The study shall inquire into such matters as are specified by the court and any other matters that the Bureau of Prisons or the professional consultants believe are pertinent to the factors set forth in section 3553(a). The period of the study may, in the discretion of the court, be extended for an additional period of not more than sixty days. By the expiration of the period of the study, or by the expiration of any extension granted by the court, the United States marshal shall, *if the defendant is in custody,* return the defendant to the court for final sentencing. The Bureau of Prisons or the professional consultants shall provide the court with a written report of the pertinent results of the study and make to the court whatever recommendations the Bureau or the consultants believe will be helpful to a proper resolution of the case. The report shall include recommendations of the Bureau or the consultants concerning the guidelines and policy statements, promulgated by the Sentencing Commission pursuant to 28 U.S.C. 994(a), that they believe are applicable to the defendant's case. After receiving the report and the recommendations, the court shall proceed finally to sentence the defendant in accordance with the sentencing alternatives and procedures available under this chapter.

"(c) PRESENTENCE EXAMINATION AND REPORT BY PSYCHIATRIC OR PSYCHOLOGICAL EXAMINERS.—If the court, before or after its receipt of a report specified in subsection (a) or (b) desires more information than is otherwise available to is as a basis for determining the mental condition of the defendant, it may order that the defendant undergo a psychiatric or psychological examination and that the court be provided with a written report of the results of the examination pursuant to the provisions of section [4247] *4244*.

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"§ 3553. Imposition of a sentence

"(a) FACTORS TO BE CONSIDERED IN IMPOSING A SENTENCE.—The court shall impose a sentence sufficient, but not greater than necessary, to comply with the purposes set forth in paragraph (2) [of

this subsection]. The court, in determining the particular sentence to be imposed, shall consider—

* * * * * * *

"(b) APPLICATION OF GUIDELINES IN IMPOSING A SENTENCE.—The court shall impose a sentence of the kind, and within the range, referred to in subsection (a)(4) unless the court finds that an aggravating or mitigating circumstance exists that was not adequately taken into consideration by the Sentencing Commission in formulating the guidelines and that should result in a sentence different from that described. *In the absence of an applicable sentencing guideline, the court shall impose an appropriate sentence, having due regard for its relationship to sentences prescribed by guidelines applicable to similar offenses and offenders and the purposes of sentencing set forth in subsection (a)(2).*

"(c) STATEMENT OF REASONS FOR IMPOSING A SENTENCE.—The court, at the time of sentencing, shall state in open court the reasons for its imposition of the particular sentence, and, if the sentence—

"(1) is of the kind, and within the range, described in subsection (a)(4), the reason for imposing a sentence at a particular point within the range; or

"(2) is not of the kind, or is outside the range, described in subsection (a)(4), the specific reason for the imposition of a sentence different from that described.

If the sentence does not include an order of restitution, *or if it includes an order of only partial restitution,* the court shall include in the statement the reason therefor. The clerk of the court shall provide a transciption of the court's statement of reasons to the Probation System, and, if the sentence includes a term of imprisonment, to the Bureau of Prisons.

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"§ 3561. Sentence of probation

"(a) IN GENERAL.—A defendant who has been found guilty of an offense may be sentenced to a term of probation unless—

"(1) the offense is a Class A or Class B felony;

"(2) the offense is an offense for which probation has been expressly precluded; or

"(3) the defendant is sentenced at the same time to a term of imprisonment for the same or a different offense.

[The liability of a defendant for any unexecuted fine or other punishment imposed as to which probation is granted shall be fully discharged by the fulfillment of the terms and conditions of probation.]

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"§ 3563. Conditions of probation

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"(b) DISCRETIONARY CONDITIONS.—The court may provide, as further conditions of a sentence of probation, to the extent that such conditions are reasonably related to the factors set forth in section 3553 (a)(1) and (a)(2) and to the extent that such conditions involve

only such deprivations of liberty or property as are reasonably necessary for the purposes indicated in section 3553(a)(2), that the defendant—

* * * * * * *

"(11) remain in the custody of the Bureau of Prisons during nights, weekends, or other intervals of time, totaling no more than the lesser of one year or the term of imprisonment authorized for the offense [in section 3581(b)], during the first year of the term of probation;

* * * * * * *

"(c) MODIFICATIONS OF CONDITIONS.—The court may[, after a hearing,] modify, reduce, or enlarge the conditions of a sentence of probation at any time prior to the expiration or termination of the term of probation, pursuant to *the provisions of Rule 32.1 of the Federal Rules of Criminal Procedure and the provisions applicable to the initial setting of the conditions of probation.*

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"§ 3564. Running of a term of probation

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"(b) CONCURRENCE WITH OTHER SENTENCES.—Multiple terms of probation, whether imposed at the same time or at different times, run concurrently with each other. [A term of probation runs concurrently with any Federal, State, or local term of probation, or supervised release, or parole for another offense to which the defendant is subject or becomes subject during the term of probation, except that it does not run during any period in which the defendant is imprisoned for a period of at least thirty consecutive days in connection with a conviction for a Federal, State, or local crime.] *A term of probation runs concurrently with any Federal, State, or local term of probation, supervised release, or parole for another offense to which the defendant is subject or becomes subject during the term of probation. A term of probation does not run while the defendant is imprisoned in connection with a conviction for a Federal, State, or local crime unless the imprisonment is for a period of less than thirty consecutive days.*

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"§ 3603. Duties of probation officers

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"(f) upon request of the Attorney General or his designee, [supervise] *assist in the supervision of,* and furnish information about a [person] *person,* within the custody of the Attorney General while on work release, furlough, or other authorized release from his regular place of confinement, or while in prerelease custody pursuant to the provisions of section 3624(c);

* * * * * * *

"§ 3624. Release of a prisoner

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"(b) CREDIT TOWARD SERVICE OF SENTENCE FOR SATISFACTORY BEHAVIOR.—A prisoner who is serving a term of imprisonment of more than one year, other than a term of imprisonment for the duration of his life, shall receive credit toward the service of his sentence, beyond the time served, of fifty-four days at the end of each year of his term of imprisonment [beginning after the first year of the term] *beginning at the end of the first year of the term,* unless the Bureau of Prisons determines that, during that year, he has not satisfactorily complied with such institutional disciplinary regulations as have been approved by the Attorney General and issued to the prisoner. * * *

* * * * * * *

"(e) SUPERVISION AFTER RELEASE.—A prisoner whose sentence includes a term of supervised release after imprisonment shall be released by the Bureau of Prisons to the supervision of a probation officer who shall, during the term imposed, supervise the person released to the degree warranted by the conditions specified by the sentencing court. The term of supervised release commences on the day the person is released from imprisonment. [The term runs concurrently with any Federal, State, or local term of probation or supervised release or parole for another offense to which the person is subject or becomes subject during the term of supervised release, except that it does not run during any period in which the person is imprisoned, other than during limited intervals as a condition of probation or supervised release, in connection with a conviction for a Federal, State, or local crime.] *The term runs concurrently with any Federal, State, or local term of probation, supervised release, or parole for another offense to which the person is subject or becomes subject during the term of supervised release. A term of supervised release does not run while the person is imprisoned in connection with a conviction for a Federal, State, or local crime unless the imprisonment is for a period of less than thirty consecutive days.* No prisoner shall be released on supervision unless such prisoner agrees to adhere to an installment schedule, not to exceed two years except in special circumstances, to pay for any fine imposed for the offense committed by such prisoner.

* * * * * * *

SEC. 214. Chapter 403 of title 18, United States Code is amended as follows:

(a) Section 5037 is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by striking out subsection (a) and inserting the following new subsections in lieu thereof:

"(a) If the court finds a juvenile to be a juvenile delinquent, the court shall hold a disposition hearing concerning the appropriate disposition no later than twenty court days after the juvenile delinquency hearing unless the court has ordered further study pursuant to subsection [(e)] *(d).* After the disposition hearing, and after considering any pertinent policy statements promulgated by the Sentencing Commission pursuant to 28 U.S.C. 994, the court may suspend the findings of juvenile delinquency, enter an order of restitution pursuant to section 3556, place him on probation, or

commit him to official detention. With respect to release or detention pending an appeal or a petition for a writ of certiorari after disposition, the court shall proceed pursuant to the provisions of chapter 207.

* * * * * * *

"(c) The term for which official detention may be ordered for a juvenile found to be a juvenile delinquent may not extend—

"(1) in the case of a juvenile who is less than eighteen years old, beyond the lesser of—

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"(B) the maximum term of imprisonment that would be authorized [by section 3581(b)] if the juvenile had been tried and convicted as an adult; or

"(2) in the case of a juvenile who is between eighteen and twenty-one years old—

* * * * * * *

"(B) in any other case beyond the lesser of—

* * * * * * *

"(ii) the maximum term of imprisonment that would be authorized by section [3581(b)] if the juvenile had been tried and convicted as an adult.

"The provisions of section 3624 are applicable to an order placing a juvenile under detention.".

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SEC. 223. Title 18 of the United States Code is amended as follows:

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(m) Chapter 306 is amended as follows:

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(3) Section 4106 is amended—

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[(B) by amending subsection (b) to read as follows:

["(b) An offender transferred to the United States to serve a sentence of imprisonment shall be released pursuant to section 3624(a) of this title after serving the period of time specified in the applicable sentencing guideline promulgated pursuant to 28 U.S.C. 994(a)(1). He shall be released to serve a term of supervised release for any term specified in the applicable guideline. The provisions of section 3742 of this title apply to a sentence to a term of imprisonment under this subsection, and the United States court of appeals for the district in which the offender is imprisoned after transfer to the United States has jurisdiction to review the period of imprisonment as though it had been imposed by the United States district court."; and]

"(B) by amending subsection (b) to read as follows:

" '(b) An offender transferred to the United States to serve a sentence of imprisonment that is longer than the maximum period of time specified in the applicable sentencing guideline promulgated pursuant to section 994(a)(1) of title 28, United States Code, as deter-

mined by the Bureau of Prisons, shall serve in an official detention facility the maximum period of time specified in the applicable sentencing guideline and shall serve the remainder of the term imposed as a term of supervised release. To the extent permitted by the applicable treaty, a determination by the Bureau of Prisons as to whether the transferred offender shall serve a term of supervised release and the length of such term to be served may be appealed to the United States court of appeals for the district in which the offender is imprisoned after transfer to the United States, and the court of appeals shall decide and dispose of the appeal in accordance with section 3742 as though the determination appealed had been imposed by the United States district court. A determination by the Bureau of Prisons shall be made only after affording the transferred offender an opportunity (1) to submit evidence or information as the applicable sentencing guideline, and (2) for an appeal within the Bureau of Prisons of such determination by a reviewing authority established by the Director pursuant to regulations.'; and"

SEC. 224. The Controlled Substances Act (21 U.S.C. 801 et seq.) is amended as follows:

(a) Section 401 (21 U.S.C. 8410 is amended—

(1) [in subsection (b)(1)(A), by deleting the last sentence;] *in subsection (b)(1)(A), by deleting the sentence which begins "Any sentence imposing a term of imprisonment under this paragraph";*

(2) [in subsection (b)(1)(B), by deleting the last sentence;] *in subsection (b)(1)(B), by deleting the sentence which begins "Any sentence imposing a term of imprisonment under this paragraph";*

(3) in subsection (b)(1)(C), by deleting the sentence which begins "Any sentence imposing a term of imprisonment under this paragraph";

[(3)] *(4)* in subsection (b)(2), by deleting the last sentence;

[(4)] *(5)* in subsection (b)(4), by deleting "subsections (a) and (b) of", and by adding "and section 3607 of title 18, United States Code" after "404"; *and*

[(5) in subsection (b)(5), by deleting the last sentence; and]

(6) by repealing subsection (c).

* * * * * * *

(c) Section 405A (21 U.S.C. 845A) is amended—

(1) in subsection (a) by deleting "(1)" after the word "punishable", and by deleting the semicolon and all that follows and inserting in lieu thereof a period;

(2) in subsection (b) by deleting "(1)" after the word "punishable", and by deleting "and (2) at least three times any special parole term" and all that follows and by inserting in lieu thereof a period; and

(3) in subsection (c) by deleting the second sentence.

[(c)] *(d)* Section 408(c) (21 U.S.C. 848(c)) is amended by deleting "and section 4202 of title 18 of the United States Code".

SEC. 225. The Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.) is amended as follows:

(a) Section 1010 (21 U.S.C. 960) is amended—

(1) [in subsection (b)(1), by deleting the last sentence;] *in subsection (b)(1), by deleting the sentence which begins "If a sentence under this paragraph provides for imprisonment";*

(2) [in subsection (b)(2), by deleting the last sentence; and] *in subsection (b)(2), by deleting the sentence which begins "If a sentence under this paragraph provides for imprisonment";*

(3) in subsection (b)(3), by deleting the sentence which begins "If a sentence under this paragraph provides for imprisonment"; and

[(3)] (4) by repealing subsection (c).

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SEC. 232. The Public Health Service Act (42 U.S.C. 201 et seq.) is amended as follows:

(a) Section 341(a) (42 U.S.C. 257(a)) is amended by deleting "or convicted of offenses against the United States and sentenced to treatment" [and], "addicts who are committed to the custody of the Attorney General pursuant to provisions of the Federal Youth Corrections Act (chapter 402 of title 18 of the United States Code),", *and "and who are not sentenced to treatment under the Narcotic Addict Rehabilitation Act of 1966".*

* * * * * * *

SEC. 235. (a)(1) This chapter shall take effect on the first day of the first calendar month beginning [twenty-four] *thirty-six* months after the date of enactment, except that—

* * * * * * *

(B)(i) chapter 58 of title 28, United States Code, shall take effect on the date of enactment of this Act or October 1, 1983, whichever occurs later, and the United States Sentencing Commission shall submit the initial sentencing guidelines promulgated [to section] *under section* 994(a)(1) of title 28 to the Congress within [eighteen] *thirty* months of the effective date of the chapter; and

* * * * * * *

SEC. 303. Part D of title II of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 841 et seq.) is amended by adding at the end thereof the following new sections 413 and 414:

"CRIMINAL FORFEITURES

"PROPERTY SUBJECT TO CRIMINAL FORFEITURE

"SEC. 413. (a) Any person convicted of a violation of this title or title III punishable by imprisonment for more than one year shall forfeit to the United States, irrespective of any provision of State law—

* * * * * * *

"THIRD PARTY TRANSFERS

"(c) All right, title, and interest in property described in subsection (a) vests in the United States upon the commission of the act giving rise to forfeiture under this section. Any such property that

is subsequently transferred to a person other than the defendant may be the subject of a special verdict of forfeiture and thereafter shall be ordered forfeited to the United States, unless the transferee establishes in a hearing pursuant to subsection [(o)] *(m)* that he is a bona fide purchaser for value of such property who at the time of purchase was reasonably without cause to believe that the property was subject to forfeiture under this section.

* * * * * * *

"WARRANT OF SEIZURE

"(f) The Government may request the issuance of a warrant authorizing the seizure of property subject to forfeiture under this section in the same manner as provided for a search warrant. If the court determines that there is probable cause to believe that the property to be seized would, in the event of conviction, be subject to forfeiture and that an order under subsection [(f)] *(e)* may not be sufficient to assure the availability of the property for forfeiture, the court shall issue a warrant authorizing the seizure of such property.

* * * * * * *

"BAR ON INTERVENTION

"(k) Except as provided in subsection [(o)] *(n)*, no party claiming an interest in property subject to forfeiture under this section may—

"(1) intervene in a trial or appeal of a criminal case involving the forfeiture of such property under this section; or

"(2) commence an action at law or equity against the United States concerning the validity of his alleged interest in the property subsequent to the filing of an indictment or information alleging that the property is subject to forfeiture under this section.

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CRIME VICTIMS FUND

SEC. 1402. (a) There is created in the Treasury a separate account to be known as the Crime Victims Fund (hereinafter in this chapter referred to as the "Fund").

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(e) Any sums awarded as part of a grant under this chapter that remain unspent at the end of a fiscal year in which such grant is made may be expended for the purpose for which such grant is made at any time during [the next succeeding fiscal year] *the next two succeeding fiscal years,* at the end of which [year] any remaining unobligated sums shall be returned to the general fund of the Treasury.

* * * * * * *

ADMINISTRATIVE PROVISIONS

SEC. 1407. (a) The Attorney General may establish such rules, regulations, guidelines, and procedures as are necessary to carry out any function of the Attorney General under this chapter and may delegate to any officer or employee of the Department of Justice any such function as the Attorney General deems appropriate.

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[(h)] *(g)* The Attorney General shall, no later than December 31, 1987, report to the President and to the Congress on the revenue derived from each source described in section [1302] *1402* and on the effectiveness of the activities supported under this chapter. The Attorney General may include in such report recommendations for legislation to improve this chapter.

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CONFORMING AMENDMENT

[Sec. 1410. Section 3150(a) of title 18 U.S.C. is amended by striking out "the general fund of".]

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